

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AXION POWER INTERNATIONAL, INC., : Civil Action No. 07-CV-11493 (RWS)
WILLIAM AND TRACY AHEARN, h/w, :
SALLY FONNER, and JAMES SMITH, :
M.D., :
 :
Plaintiffs, :
 :
v. :
 :
MERCATUS & PARTNERS, LTD., MF :
GLOBAL, INC., MF GLOBAL, UK, Ltd., :
CARI MASI a/k/a CARY MASI, BNP :
PARIBAS SECURITIES SERVICES, :
BANCA MB S.p.A, DWIGHT PARSCALE, :
STEPHANO CEVALO, CONTINENTAL :
STOCK TRANSFER AND TRUST :
COMPANY, PENSON FINANCIAL :
SERVICES, INC., AND BROWN :
BROTHERS HARRIMAN & CO., :
 :
Defendants. :
 :
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NOTICE OF MOTION

PLEASE TAKE NOTICE that defendant Brown Brothers Harriman & Co. hereby moves before the Honorable Robert W. Sweet, United States District Judge for the Southern District of New York for an Order Dismissing the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), and granting such other further relief as the Court deems just and proper.

This motion is based upon this notice of motion, Defendant's Memorandum of Law in Support of Motion to Dismiss of Brown Brother Harriman & Co., the accompanying declaration of Steven F. Molo and the exhibits annexed thereto, all other pleadings and

proceedings in this action, such matters and facts of which the Court may take judicial notice, and any argument of counsel herein.

Dated: New York, New York
March 10, 2008

SHEARMAN & STERLING LLP

BY:

A handwritten signature in black ink, appearing to read 'S. F. Molo', is written over a horizontal line.

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